

11:18 am, Dec 03, 2019

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-v-

Case No. 13-cr-0351 (SFJ)

Order Granting Compel Motion

BUSHRA BAIG,

Defendant.

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FEUERSTEIN, S., Senior District Judge:

Defendant Bushra Baig (hereafter, “Bushra”) filed a *pro se* Motion to Compel seeking a modification of her sentence of probation, *i.e.*, a reduction of the term of supervised release from five (5) to three (3) years. (*See* ECF No. 346; hereafter, the “Compel Motion”). On August 2, 2019, the Government filed its response, agreeing to the requested reduction, but stating that “the most appropriate way to do that at this stage appears to be for [Bushra]’s [Compel M]otion to be considered a habeas motion pursuant to 28 U.S.C. § 2255, assuming that [Bushra] consents to such a conversion of her motion.” (Response (ECF No. 356) at (unnumbered) 1; *see also id.* at 2 (“Assuming the defendant consents to converting her motion to a habeas petition, the government would not object to a resentencing for the sole purpose of reducing the defendant’s term of supervised release from five years to three years.”)(emphasis added); *id.* at 3 (“[T]he government’s position is that proceeding under 28 U.S.C. § 2255 would be the most appropriate way to correct the defendant’s sentence, and the government would not oppose reducing the term of supervised release from five years to three years.”).) On August 5, 2019, the Probation Department also filed a response stating, in relevant part, that a sentencing error had occurred regarding Bushra’s term of supervised release since “the maximum term of supervised release that could have been imposed was three years.” (ECF No. 357 (sealed) at 1); it concurred with the Government’s recommendation to convert Bushra’s Compel Motion to a § 2255 habeas petition *upon Bushra’s consent*, and then resentence her to three years of supervised release. (*See id.*)

In response to the Court’s November 7, 2019 Order providing Bushra with the opportunity to affirmatively consent to the conversion of her Compel Motion to a § 2255 habeas petition, on November 26, 2019, Bushra filed a Supplemental Affidavit which stated, in relevant

part: “I respectfully consent and request that th[e Compel M]otion be converted to a motion under 28 U.S.C. § 2244 for Habeas Corpus relief, to vacate my current sentence and to resentence me to a sentence up to three years of supervised release, nunc pro tunc.” (Bushra Supp. Aff. (ECF No. 363), ¶3.)

Accordingly, **IT IS HEREBY ORDERED** that Bushra Baig’s Compel Motion is deemed a § 2255 habeas petition which is GRANTED to the extent that the Court’s Judgment (ECF No. 226) is corrected such that Bushra’s term of supervised release is reduced to three (3) years. **IT IS FURTHER ORDERED** that the Government is directed to serve this Order upon Bushra Baig and file proof of said service.

SO ORDERED this 3rd day of December 2019 at Central Islip, New York.

/s/ *Sandra J. Feuerstein*
Sandra J. Feuerstein
United States District Judge